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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,540	12/12/2003	Connie Baozhen Lin	J&J-5093	2724
27777	7590	12/13/2007	EXAMINER	
PHILIP S. JOHNSON			VU, JAKE MINH	
JOHNSON & JOHNSON			ART UNIT	PAPER NUMBER
ONE JOHNSON & JOHNSON PLAZA			1618	
NEW BRUNSWICK, NJ 08933-7003			MAIL DATE	DELIVERY MODE
			12/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/735,540	<b>Applicant(s)</b> LIN, CONNIE BAOZHEN	
	<b>Examiner</b> Jake M. Vu	<b>Art Unit</b> 1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 13-16, 18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 17 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Receipt is acknowledged of Applicant's Restriction Requirement Response filed on 10/03/2007; and Information Disclosure Statements filed on 07/18/2005 and 12/12/2003.

- Claims 1-20 are pending in the instant application.
- Claims 1-10, 13-16, 18 and 20 are withdrawn from consideration.

### ***Election/Restrictions***

Applicant's election with traverse of Group II and elected specie of "aloin monomers" in the reply filed on 10/03/2007 is acknowledged. The traversal is on the ground(s) that it would be more efficient to search and examine both claim groupings together and it would be more burdensome to prosecute two separate applications for the identified claims. This is not found persuasive, because searching all of the claims would require searching in numerous different classes and subclasses, as well as a different searching focus depending on whether the product or processes are being searched. Thus, the search would pose an undue burden on the Office.

The requirement is still deemed proper and is therefore made FINAL.



MICHAEL G. HARTLEY  
SUPERVISORY PATENT EXAMINER

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "50 10 kd" is unclear. The Examiner assumes this is a typographical error. Please clarify.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by CHARBONNEAU (US 4,230,817).

Applicant's claims are directed to a polymer comprising of: vanilla monomers and 3,4-dihydroxybenzoic acid.

CHARBONNEAU teaches a polymer comprised of: vanillic acid and p-hydroxybenzoic acid (see col. 7, Example 2 and col. 3, line 30-60), which would make the same polymer when polymerized.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over PAWELEK et al. (US 5,744,125) in view of CARDEN (US 4,714,609).

Applicant's claims are directed to a polymer composition comprising of: vanillin; aloin and a cosmetically-acceptable topical carrier.

PAWELEK teaches cosmetic melanins of different colors produced by polymerization to produce naturally-appearing tan (see abstract). The polymer is produced from precursor monomers that share the common characteristics of possessing at least one aromatic ring and at least one ionizable side group (see col. 3, line 22-25), such as aloin, emodin, alizarin (see col. 3, line 28-35), 3-aminotyrosine, and 3-4-dihydroxybenzoic acid (see col. 2, line 26-34); and cosmetic vehicles such as water (see col. 7, line 1-29). Additional disclosures include: polymerization could yield melanins with reproducibly different physical characteristics such as molecular weight and color (see col. 4, line 55-57); and a wide variety of compounds from different chemical classes can be polymerized or copolymerized through such procedures and that said procedures polymerized can thus be used together to screen for new melanins polymerized from different precursors (see col. 4, line 58-62).

PAWELEK does not disclose using vanillin.

CARDEN teaches using vanillin, which has an aromatic ring and an ionizable side group, for tanning human epidermis (see abstract and col. 2, line 5-8).

It would have been obvious to the person of ordinary skill in the art at the time the invention was made to incorporate vanillin into PAWELEK tanning polymers. The person of ordinary skill in the art would have been motivated to make that modification, because vanillin has tanning properties, and reasonably would have expected success because vanillin has an aromatic ring and an ionizable side group as required by PAWELEK.

The references do not specifically teach making a polymer of about 10 kd as claimed by Applicant. The size of a polymer is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize (see PAWELEK at col. 4, line 55-57). Optimization of parameters is a routine practice that would be obvious for a person of ordinary skill in the art to employ and reasonably would expect success. It would have been customary for an artisan of ordinary skill to determine the optimal size to produce in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of producing polymer size would have been obvious at the time of Applicant's invention.

#### ***Telephonic Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jake M. Vu whose telephone number is (571) 272-8148. The examiner can normally be reached on Mon-Tue and Thu-Fri 8:30AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Jake Vu", is positioned above the printed name.

Jake M. Vu, PharmD, JD  
Art Unit 1618